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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/694,724

10/29/2003

Kenichi Ohkawa

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EXAMINER

SHOSHO, CALLIE E

ART UNIT

PAPER NUMBER

1714

MAIL DATE

DELIVERY MODE

03/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/694,724

Applicant(s)

OHKAWA ET AL.

Examiner

Callie E. Shosho

Art Unit

1714

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 28 February 2007. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-8.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Callie E. Shosho
Primary Examiner
Art Unit: 1714

Attachment to Advisory Action

1. Please note that the examiner of record has been changed. The new examiner is Callie Shosho.

2. Applicants' arguments filed 2/28/07 have been fully considered but they are not persuasive.

Specifically, applicants argue that Masuda et al. (U.S. 2004/0053064) fails to alleviate the deficiencies of Ohkawa et al. (U.S. 2002/0004546) given that Masuda et al. fails to teach or suggest the presently claimed resin satisfying requirement 4.

However, attention is drawn to paragraph 23 of Masuda et al. that discloses the use of polypropylene (HMS-PP) known under the tradename PF-814 which is identical to the resin (E) utilized in the present invention. Thus, it is clear that such resin would intrinsically possess swelling ratio as required in presently claimed requirement 4.

Applicants also argue that while Masuda et al. teach that the introduction of long chain branches modify the polypropylene for the purpose of increasing the melt strength, Masuda et al. do not teach that the introduction of such long-chain branched polypropylene into a thermoplastic resin composition increases the melt strength of the composition.

However, it would have been natural for one of ordinary skill in the art to infer that including a branched polypropylene with increased melt strength into a composition would result in composition with increased melt strength. Further, attention is drawn to paragraph 188 of Masuda et al. that disclose that melt strength and flow rate can be controlled by adjusting the amount of HMS-PP utilized and to paragraphs 28 and 285 of Masuda et al. that disclose that the

use of such HMS-PP, by adding the HMS-PP to polypropylene, results in composition having increased stiffness without degraded characteristics such as dimensional stability, moisture proof property, stretchability, impact resistance and haze as compared to composition not using such HMS-PP. Thus, it is clear that the use of HMS-PP with increased melt strength does result in composition with increased melt strength that results in improving the characteristics of the composition such as stiffness.

Applicants also argue that there is no motivation to combine Ohkawa et al. with Masuda et al. given that Ohkawa et al. is drawn to composition for injection molding while Masuda et al. is drawn to biaxially oriented films and given that there is no disclosure in Ohkawa et al. that the use of HMS-PP has effects in direction other than the longitudinal direction of biaxially stretched film.

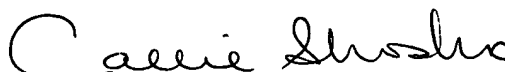
However, it is noted that according to MPEP 2141.01 (a), a reference may be relied on as a basis for rejection of an applicants' invention if it is "reasonably pertinent to the particular problem with which the inventor is concerned." A reasonably pertinent reference is further described as one which "even though it maybe in a different field of endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem." Masuda et al. is, therefore, a reasonably pertinent reference, because it teaches that adding polypropylene having increased melt strength, i.e. HMS-PP, to composition comprising polypropylene results in composition having increased stiffness without degraded characteristics such as dimensional stability, moisture proof property, stretchability, impact resistance and haze as compared to composition not using such HMS-PP, which is a function especially pertinent to the invention at hand.

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Applicants also argue that there is no motivation to combine Ohkawa et al. with Masuda et al. given that there is no disclosure in Masuda et al. that the use of HMS-PP has effect on non-stretched products.

However, based on the teachings of Masuda et al., one of ordinary skill in the art would have recognized that HMS-PP functions so as to improve melt strength in polypropylene compositions and would have expected HMS-PP to function as such in other polypropylene compositions such as that disclosed by Ohkawa et al. That is, as set forth in paragraph 4 of the office action mailed 8/28/06, given that Ohkawa et al. provides composition that is polypropylene-based, one would look to modify the properties of such composition by looking to art in the field of polypropylene composition and improvements thereof, which is taught by Masuda et al. Therefore, one would expect an increase in melt strength in a polypropylene-based composition (Ohkawa et al.) when using an additive shown to increase melt strength in a polypropylene composition (Masuda et al.).

In light of the above, it is the examiner's position that the rejections of record remain relevant against the present claims.



Callie E. Shosho
Primary Examiner
Art Unit 1714

CS
3/15/07